

SUPREME COURT  
OF THE STATE OF WASHINGTON

LIAM STEWART-GRAVES, a minor,  
and NICHOLE STEWART-GRAVES, as  
Guardian ad Litem, and NICHOLE  
STEWART-GRAVES and TODD  
GRAVES, individually,

Appellants,

v.

KATHERINE F. VAUGHN, M.D.; THE  
VANCOUVER MEDICAL CLINIC,  
INC., P.S.; and SOUTHWEST  
WASHINGTON MEDICAL CENTER,

Respondents.

NO. 78383-7

THIRD STATEMENT  
OF ADDITIONAL  
AUTHORITY

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
2007 JAN 30 A 11:31  
CLERK

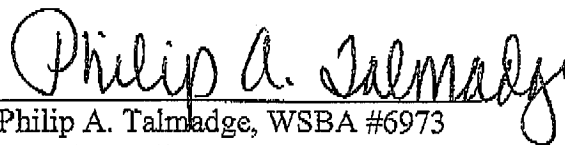
COME NOW the appellants Liam Stewart-Graves, Nichole Stewart-Graves, and Todd Graves and submit the following additional authority to the Court pursuant to RAP 10.8:

- CP 144 (Todd Graves asked for additional information from the nurse who visited him during Dr. Vaughns' resuscitation efforts regarding Liam's condition).
- CP 259 (Dr. Vaughn would have stopped resuscitation efforts if Todd Graves had instructed her to do so).
- CP 203, 251 (Dr. Vaughn didn't know implications for Liam of continued resuscitation).
- CP 205, 249 (no hospital protocol re: newborn resuscitation).
- CP 201-02 (time not called out by staff during Liam's resuscitation).
- RCW 7.70.050(3)(d) (among the material risks about which a health care practitioner must advise a patient and secure the patient's informed consent are the possible risks, complications, and anticipated benefits involved in the treatment administered, and recognize possible alternative forms of treatment including nontreatment).

- *Zebarth v. Swedish Hospital Medical Center*, 81 Wn.2d 12, 223-23, 499 P.2d 1, (1972) (first Washington Supreme Court case on informed consent; health care practitioner must advise of risks regarding the proposed treatment, or alternative treatment, or no treatment at all).
- *Montalvo v. Borkovec*, 256 Wis.2d 472, 647 NW.2d 413 (2002) (Wisconsin does not require health care practitioner to inform a patient of nontreatment as a material risk).
- *In re Welfare of Colyer*, 99 Wn.2d 114, 660 P.2d 738 (1983) (right of patient to decline life-sustaining treatment rooted in common law principles of informed consent and the constitutional right to privacy).
- *In re Guardianship of Ingram*, 102 Wn.2d 827, 836, 842-43, 689 P.2d 1363 (1984) ("Unless outweighed by some state interest, a person has the right to choose one medical treatment over another, or even refuse medical treatment altogether;" Court rejects proposition that State's interests in preserving life outweighed incompetent patient's desire to decline surgery).
- *Farnam v. Christa Ministries*, 116 Wn.2d 659, 807 P.2d 830 (1991) (nurse who declined to withdraw nutrition and hydration from nursing home patients because of moral objections did not state a cause of action for wrongful discharge in violation of public policy).
- RCW 70.122.910 ("this chapter [natural death act] shall not be construed as providing the exclusive means by which individuals may make decisions regarding their health treatment, including but not limited to, the withholding or withdraw of life-sustaining treatment, nor limiting the means provided by case law more expansive than chapter 98, laws of 1992.").

DATED this 30th day of January, 2007.

Respectfully submitted,



Philip A. Talmadge, WSBA #6973  
 Anne E. Melley, WSBA #22937  
 Talmadge Law Group PLLC  
 18010 Southcenter Parkway  
 Tukwila, WA 98188-4630  
 (206) 574-6661

DECLARATION OF SERVICE

On this day said forth below I deposited in the U. S. Mail a true and accurate copy of the following document: Third Statement of Additional Authorities in Supreme Court Cause No. 78383-7 to the following parties:

Paul L. Henderson  
900 Washington St., Suite 1020  
Vancouver, WA 98660

Zev T. Gershon  
Robin Smith  
Wayne M. Willoughby  
10 Crossroads Drive, Suite 203  
Owings Mill, MD 21117

Elizabeth Leedom  
Bennett Bigelow & Leedom, P.S.  
1700 Seventh Avenue, Suite 1900  
Seattle, WA 98101


Jeffrey R. Street  
Scott Schauermann  
Hoffman, Hart & Wagner, LLP  
1000 SW Broadway, Fl. 20  
Portland, OR 97205

Mary H. Spillane  
Williams, Kastner & Gibbs PLLC  
601 Union Street, Suite 4100  
Seattle, WA 98111-3926

Original filed via fax with:  
Supreme Court, Clerk's Office  
Olympia, WA 98504-0929

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: January 30, 2007, at Tukwila, Washington.

  
Paula Chapler, Legal Assistant  
Talmadge Law Group

Robin R. Smith  
Zev T. Gershon  
Wayne M. Willoughby  
McDonogh Crossroads  
10 Crossroads Drive, Suite 203  
Owings Mills, MD 21117

Paul L. Henderson, WSBA #8729  
900 Washington St., Suite 1020  
Vancouver, WA 98660  
Attorneys for Appellants